

**United States Department of Labor  
Employees' Compensation Appeals Board**

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T.G., Appellant )  
and ) Docket No. 25-0859  
DEPARTMENT OF VETERANS AFFAIRS, ) Issued: November 26, 2025  
VETERANS HEALTH ADMINISTRATION, )  
Cleveland, OH, Employer )  
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)

*Appearances:*  
Appellant, *pro se*  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge

**JURISDICTION**

On September 9, 2025 appellant filed a timely appeal from a March 17, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from the last merit decision, dated March 11, 2024, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction to review the merits of this case.

**ISSUE**

The issue is whether OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

**FACTUAL HISTORY**

On December 21, 2023 appellant, then a 56-year-old medical technologist, filed an occupational disease claim (Form CA-2) alleging that she contracted COVID-19 due to factors of

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

her federal employment, including exposure to lab personnel working in various laboratories. She explained that she was exposed days prior to testing positive for COVID-19 via a polymerase chain reaction (PCR) test on November 28, 2023. Appellant noted that she first became aware of her condition on November 28, 2023 and realized its relation to her federal employment on December 13, 2023. On the reverse side of the claim form, the employing establishment challenged the claim.

Appellant submitted medical evidence in support of her claim, including the positive PCR laboratory test result collected on November 28, 2023.

In a statement dated December 22, 2023, the employing establishment challenged the claim asserting that no other staff members in the office tested positive for COVID-19 on or before November 28, 2023.

In a December 28, 2023 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence. In a separate development letter of even date, it requested the employing establishment provide additional evidence, including comments from a knowledgeable supervisor regarding appellant's claim. OWCP afforded the employing establishment 30 days to respond.

On January 2, 2024 the employing establishment controverted appellant's claim, asserting that she had not provided any evidence to substantiate that she was exposed to someone who had tested positive for COVID-19.

In a follow-up letter dated February 5, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the December 28, 2023 letter to submit the necessary evidence. OWCP further advised that if sufficient evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In response, appellant continued to submit medical evidence in support of her claim.

On February 27, 2024 appellant responded to OWCP's development questionnaire, further describing the circumstances surrounding her exposure to COVID-19.

By decision dated March 11, 2024, OWCP denied appellant's occupational disease claim, finding that she had not established the implicated factors of her federal employment to establish she was exposed to COVID-19 in the workplace. Consequently, it concluded that the requirements had not been met to establish an injury as defined by FECA.

On March 11, 2025 appellant requested reconsideration.

No evidence in support of reconsideration of the merits of the claim was received.

By decision dated March 17, 2025, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

## **LEGAL PRECEDENT**

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his or her own motion or on application.<sup>2</sup>

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument which: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.<sup>3</sup>

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.<sup>4</sup> If it chooses to grant reconsideration, it reopens and reviews the case on its merits.<sup>5</sup> If the request is timely, but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.<sup>6</sup>

## **ANALYSIS**

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).<sup>7</sup>

On March 11, 2025 appellant timely filed a request for reconsideration of a March 11, 2024 decision denying her occupational disease claim. The Board finds, however, that she neither established that OWCP erroneously applied or interpreted a specific point of law, nor did she advance a relevant legal argument not previously considered by OWCP. Accordingly, the Board finds that appellant is not entitled to a review of the merits based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).<sup>8</sup>

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<sup>2</sup> 5 U.S.C. § 8128(a); *see R.C.*, Docket No. 22-0612 (issued October 24, 2022); *M.S.*, Docket No. 19-1001 (issued December 9, 2019); *L.D.*, Docket No. 18-1468 (issued February 11, 2019); *see also V.P.*, Docket No. 17-1287 (issued October 10, 2017); *W.C.*, 59 ECAB 372 (2008).

<sup>3</sup> 20 C.F.R. § 10.606(b)(3); *see R.C.*, *id.*; *L.D.*, *id.*

<sup>4</sup> *Id.* at § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

<sup>5</sup> *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

<sup>6</sup> *Id.* at § 10.608(b); *M.S.*, Docket No. 19-0291 (issued June 21, 2019); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

<sup>7</sup> *T.R.*, Docket No. 23-0287 (issued June 23, 2023).

<sup>8</sup> *See L.W.*, Docket No. 21-0607 (issued October 18, 2022).

The Board further finds that appellant did not submit relevant and pertinent new evidence in support of her March 11, 2025 request for reconsideration. The underlying issue in this case is whether appellant established that she actually experienced the employment exposure alleged to have occurred while in the performance of duty. Appellant, however, failed to submit any evidence with her reconsideration request addressing this underlying issue. Because she did not provide any relevant and pertinent new evidence, she is not entitled to a review of the merits based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).<sup>9</sup>

The Board, therefore, finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

### **CONCLUSION**

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

### **ORDER**

**IT IS HEREBY ORDERED THAT** the March 17, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 26, 2025  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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<sup>9</sup> *Id.*